



Oregon

Theodore R. Kulongoski, Governor

Public Utility Commission

550 Capitol St NE, Suite 215

Mailing Address: PO Box 2148

Salem, OR 97308-2148

Consumer Services

1-800-522-2404

Local: (503) 378-6600

Administrative Services

(503) 373-7394

February 3, 2003

Ms. Marlene Dortch
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, D.C. 20554

RE: CC Docket Nos. 01-338, 96-98, 98-147

Ex Parte Communications

On January 30, 2003, I discussed the state role in UNE-P and the Qwest proposal with Matt Brill, Legal Adviser to Commissioner Abernathy and with Chris Libertelli, Legal Adviser to Chairman Powell. On January 31, 2003, I had similar ex parte discussions with Lisa Zaina, Legal Adviser to Commissioner Adelstein, and with Jordan Goldstein, Legal Adviser to Commissioner Copps. Attempts to reach Commissioner Martin's adviser were not successful.

Attached please find a copy of the statement from Bob Rowe of Montana and me describing our reaction to the Qwest proposal submitted on January 30 as an ex parte communication.

In accordance with FCC rule 1.49(f), this ex parte letter and attachment are being filed electronically.

Joan H. Smith
Commissioner

Attachment

JOINT STATEMENT – TRIENNIAL REVIEW

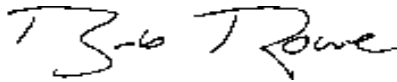
January 30, 2003

We commend Qwest's effort to propose a workable framework for transitioning unbundled switching from the list of required unbundled network elements. The two-part proposal relies on the expertise of state commissions to assist in the process. This proposal is a major step in the right direction and is a meaningful compromise.

Under Qwest's proposal, the FCC would remove unbundled switching from the UNE list, but with different timeframes for that removal depending on the presence of CLEC switches. In areas where CLECs have a demonstrable presence, with three or more switches in a LATA, the FCC would eliminate the requirement to provide unbundled switching promptly. However, the proposal makes the state commissions arbiters over deciding the transition timeframe in areas where it is not as clear that CLECs are well established. The proposal relies on existing geographical boundaries, known as LATAs, and the current business plans of CLECs that located qualifying switches in the LATAs. In LATAs where there are fewer than three such switches, the state commissions, interpreting the guidelines established by the FCC, would look at additional factors to determine the speed of the transition for the removal of unbundled switching.

The Qwest proposal also would give the states flexibility to craft a reasonable transition plan that can accommodate differences in CLEC business plans, ILEC installation capabilities, and geography. We believe that the Qwest proposal attempts to fairly balance the needs and legal rights of both CLECs and ILECs while setting the appropriate roles for state and federal regulators.

Disclaimer: There are always details to be negotiated and differences in perspective. There may be other options. The "market price" of the switch is key, for example. It will also be necessary to address the cost of using switches a great distance away in large, predominantly rural LATAs. Qwest's proposal is a substantial step forward, and deserves to be the subject of focused, serious discussions among stakeholders to address and resolve specific concerns. We do not favor the position of any industry sector but hope that certainty will move the industry forward without further damage to any of its participants or to customers.



Bob Rowe, Chairman
Montana Public Service Commission



Joan Smith, Commissioner
Oregon Public Utility Commission